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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,406	11/28/2000	Joseph A. Francisco	9632-006-999	7578

20583 7590 04/03/2003

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EXAMINER

YU, MISOOK

ART UNIT PAPER NUMBER

1642

DATE MAILED: 04/03/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,406

Applicant(s)

FRANCISCO ET AL.

Examiner

MISOOK YU, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) 15.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: sequence alignment

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The Examiner of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Misook Yu.

DETAILED ACTION

The finality of the previous Office action has been withdrawn and Claims 1-8, 11, and 13-19 are pending and examined on merits.

Claim Rejections - 35 USC § 102

Rejection of claims 1, 2, 5, and 7 rejected under 35 U.S.C. 102(b) as being anticipated by da Costa et al (2000) **is withdrawn** because applicant's argument that the conjugated antibody used in the prior art is different product than the product in the instantly claimed method.

Claim Rejections - 35 USC § 103

Rejection of claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over da Costa et al (2000) in view of Engart et al (1999) is also withdrawn because the product used in the primary reference is not same as the product used in the instantly claimed method.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 102

Claims 1-5, 7, 8, 11, 13, 15, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/22384 (25 July 1996).

The claims are interpreted as drawn to method of Hodgkin's disease treatment by administering anti-CD 30 antibody alone or conjugate anti-CD antibody alone. WO 96/22384 teaches various anti-CD30 antibodies in treatment of Hodgkin's disease throughout the entire article (see especially claims 13 and 14, and pages 8-11). As for claim 11, various antibodies taught by WO 96/22384 inherently has antibody light chain at least 95 % identity to instant SEQ ID NO:2 as evidenced by Weigert et al (Nature 1978 Dec 21-28;276:785-90, abstract). Note that sequence alignment of instant SEQ

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ID NO:2 against mouse immunoglobulins light chain which shows about 98 % sequence identity.

Claim Rejections - 35 USC § 103

Claims 6, 14, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/22384 as applied to claims 1-5, 7, 8, 11, 13, 15, 16, and 19 above, and further in view of Barth et al (June 2000, Blood, vol. 95, page 3909-14).

The claims are interpreted as drawn to method of Hodgkin's disease treatment by administering anti-CD 30 antibody or conjugate anti-CD antibody in combination with other known conventional chemotherapy. Barth et al teach that conventional chemotherapy works quite well in treating Hodgkin's disease and further teach that anti-CD30 antibody might be useful for killing the residual tumor cells that escapes from the conventional chemotherapy and causes relapse later. Therefore, it would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to use anti-CD30 antibody to kill residual tumor cells to prevent relapse.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU, Ph.D. whose telephone number is 703-308-2454. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony C Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

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Misook Yu
April 1, 2003

Mary Mosher
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PRIMARY EXAMINER
GROUP 1800
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